

MINUTES

CITY PLAN COMMISSION/ARCHITECTURAL REVIEW BOARD

FEBRUARY 16, 2010

The City Plan Commission/Architectural Review Board of the City of Clayton, Missouri, met upon the above date at 5:30 p.m., Acting Chairman Jim Liberman presiding. Upon roll call, the following responded:

Present:

Acting Chairman Jim Liberman
Steve Lichtenfeld, Aldermanic Representative
Craig S. Owens, City Manager
Marc Lopata
Scott Wilson
Ron Reim

Absent:

Chairman Harold Sanger

Also Present:

Jason Jaggi, Acting Director of Planning & Development Services
Kevin O'Keefe, City Attorney

Acting Chairman Liberman welcomed everyone to the meeting. He asked that all cell phone ringers be turned off or muted and that conversations take place outside the room so as not to disrupt the meeting.

MINUTES

The minutes of the February 1, 2010 meeting were presented for approval. The minutes were approved after having been previously distributed to each member.

CONDITIONAL USE PERMIT/ARCHITECTURAL REVIEW BOARD – NEW RESTAURANT – DEMUN OYSTER BAR – 740 DEMUN AVENUE

Alan Richman, restaurant owner, was in attendance at the meeting.

Jason Jaggi explained that the applicant proposes a seafood restaurant with a New Orleans theme featuring fresh oysters, mussels, clams, shrimp, soups and sandwiches. Beignets and chicory coffee will also be served. A full liquor license will be requested to the Board of Aldermen. DeMun Oyster Bar will be approximately 1,400 square feet in size and will accommodate 38

patrons in the dining area and another 24 customers on the sidewalk areas facing South Rosebury and DeMun. Since the restaurant is less than 3,000 square feet, the applicant is only required to provide employee parking. The plans indicate that two spaces will be provided in the detached garage located behind the building. This garage is currently being used for storage and will need to be converted for parking use. Proposed hours of operation are 11:00 a.m. until 1:30 a.m., Monday through Saturday and 10:00 a.m. to midnight on Sunday. Deliveries to the restaurant will be made using the side door facing South Rosebury. Delivery service from the restaurant is not proposed. A trash dumpster will be located behind the detached garage off of the rear alley. The applicant indicates that trash will be removed from the premises 6 days a week. A new exhaust flue is required to be installed and is shown at the first floor level adjacent to the sidewalk. Staff has advised the applicant that this flue will need to be extended to the rooftop level to avoid an odor nuisance affecting adjacent residents. Jason indicated that the inclusion of a casual seafood establishment will add vitality and provide a unique dining establishment in the DeMun commercial district. The restaurant space is small and it is not anticipated to create additional traffic and parking concerns, which would negatively affect the neighborhood. Staff expects that this restaurant will attract significant walk-in traffic from the surrounding residential area. Staff does have concerns with the location of the exhaust flue as shown on the plans and recommends that the flue be extended to the roof top level to avoid odor issues. Jason indicated that staff recommends approval of the conditional use permit to the Board of Aldermen with the following conditions:

1. That an Outdoor Dining Permit be obtained prior to utilizing the outdoor seating areas
2. That the applicant maintain two parking spaces located in the garage behind the building.
3. That the exhaust flue be extended to the rooftop level and enclosed per staff review and approval.

Mr. Richman indicated that Jason's account of the restaurant is accurate. He stated that it will be pricey to run the vent through the roof, but that he will do so if required. He stated that he hopes to be allowed to vent it out the side and noted that the closest window from where the vent would be located is 10 feet away.

Marc Lopata asked if there is an odor issue.

Jason Jaggi indicated that there is the potential for an odor nuisance to the area, which staff would like to avoid by terminating at the roof level. He indicated that staff is also asking that the vent be concealed as well.

Marc Lopata asked if this is an issue all restaurants face.

Jason Jaggi replied "yes"; for those restaurants located on the first floor. He advised that this is not a Code issue, but a policy.

Mr. Richman advised the members that he lives in the neighborhood and that the wall for which the vent would be located faces an alley and garages. He stated that there are units above his, but there are no windows that open within 10' of the proposed vent location. He stated that there

are other restaurants that terminate out the side and that the restaurant will primarily serve raw oysters.

Marc Lopata asked if venting out the roof could be required later if it is determined that odors are an issue.

Jason Jaggi stated that it would be more difficult to do after it is installed. He stated that staff is trying to be proactive versus reactive.

Mr. Richman reiterated that there is a significant cost issue.

Jason Jaggi indicated that staff is working with the architect to come up with a low cost method.

Steve Lichtenfeld commented that an oyster bar is a great idea and a great addition to the area.

Sally Hetzel, neighborhood resident (Northwood) indicated that she is not at all opposed to the restaurant, but that odors could also cause a problem for pedestrians.

Marc Lopata stated that there are three other restaurants (Sasha's, Kaldi's and Jimmy's) that cook and two of them vent at street level.

Mr. Richman indicated that Jimmy's is one story and they do vent out the roof. He informed the members that he owns Sasha's and it is not vented, but there is not a lot of on-site cooking.

Being no further questions or comments from the members or from the audience, Steve Lichtenfeld made a motion to recommend approval of the Conditional Use Permit to the Board of Aldermen with the following conditions: 1) That the Outdoor Dining Permit be issued prior to using the outdoor dining area(s); 2) That the applicant maintain two employee parking spaces in the garage behind the building; and 3) That the exhaust flue be vented out the rooftop level, if, after 90 days from date of occupancy, the City determines that odors are causing a nuisance for area residents and/or pedestrians. The motion was seconded by Marc Lopata and unanimously approved by the members.

The architectural aspects of the project were now up for review.

Jason Jaggi explained that this is consideration of a request by Alan Richman, restaurant owner, for the review of the design and materials associated with outdoor dining, signage and replacement window systems for the new DeMun Oyster Bar restaurant. The applicant is proposing to operate outdoor dining on the sidewalk areas facing DeMun and South Rosebury. On the DeMun side, 4 tables with 8 seats are proposed. The plans do not show the required 4-foot minimum pedestrian clearance. On the South Rosebury side, 8 tables with 16 chairs are shown. The required 4-foot pedestrian clear area is shown for this portion of the outdoor dining area. A total of 12 tables and 24 seats are proposed. The tables will be square with two seats each. The materials of the tables

are marble and cast iron white and cream in color. The chairs will be blue and white wicker. A pedestrian barrier is shown to enclose both outdoor dining areas. This barrier is proposed with a unique style featuring varying diameter steel rings. The top features a wood railing. The applicant is proposing a blade sign measuring 12 square feet to be located on the southwest corner of the building, above the main entrance. No other signs are proposed for the building. The proposed material of this sign would be metal and neon. The proposed blade sign does not meet the provisions of the Sign Ordinance which limits the size of perpendicular signs to 6" by 24". The applicant is also proposing a wood clad awning window system which opens from the bottom and remains held at the top. The purpose of these windows is to open the restaurant to the outside during nice weather. An exhaust flue is shown to terminate at the rear of the building. Due to the potential odors which might create a nuisance, staff recommends that this flue be extended to the roof top level and enclosed with a material appropriate to the building. Jason indicated that staff believes that the design of this space is unique and that it will add vitality to the DeMun commercial district; however, staff has concerns with some of the proposed architectural elements as follows: the large awning window systems, which will fully open to be parallel with the ground, seem to detract visually from the commercial district. These large sections of glass will be suspended above the seating areas and will likely extend into the City's right-of-way raising safety and liability concerns. With these concerns in mind, staff would prefer a traditional operable window system instead of these fully opening awning windows. The flue, which is shown to terminate at the rear of the building, has the potential to create an odor nuisance to adjacent residents. Staff believes that this flue needs to extend to the roof top level and be concealed with a material appropriate to the building. This location provides ample room for outdoor dining, especially on the south side facing S. Rosebury. As shown, the required 4-foot pedestrian clearance is not provided for the area facing DeMun. Additionally, staff has requested a survey to verify the property lines necessary for insurance purposes, which is required by the Outdoor Dining Permit. The applicant is proposing a unique design for the pedestrian railings containing a series of steel rings with a wood top. The Architectural Review Board's preference for these fences has been to keep them uniform (black aluminum standard design). The request for the blade sign requires the Architectural Review Board to approve a modification to the Sign Ordinance. The request for this type of sign in lieu of permitted wall signs should be considered positively. This sign seems to compliment the eclectic nature of the area and will match the theme of the restaurant. Staff would recommend that if the modification is approved, that a condition be placed that no additional wall signs be permitted unless approved by the Architectural Review Board. Jason indicated that staff's recommendation is to approve with the following conditions:

1. That the modification to the Sign Ordinance be granted so as to allow the proposed blade sign with the conditions that no additional wall signs are permitted (unless approved by the ARB), that the sign contain no exposed neon and that the size be limited to 12 square feet, as shown.
2. That a survey be provided showing the property lines prior to issuing the Outdoor Dining Permit.
3. That a revised seating plan be provided showing at least 4-foot pedestrian clearance for the outdoor dining area facing DeMun for staff review and approval.

4. That the pedestrian railings be the standard black aluminum design per staff review and approval.
5. That the exhaust flue shown on the rear of the building be extended to the rooftop level and enclosed with a material appropriate to the building for staff review and approval.
6. That the awning window systems, as shown, be denied due to appearance and safety concerns.

Mr. Richman informed the members that he saw the proposed window system in Seattle. Photos of the proposed window system were distributed. He stated that the system is custom made and he has only seen it in the northwest. He indicated that it is a very important design element. Mr. Richman then made reference to the proposed pedestrian railing, stating that he wanted a more unique appearance and wanted to pick up some of the design elements from the interior of the restaurant.

Mr. Richman then distributed a rendering of an alternate barrier (wicker planters) that, if his current iron railing proposal is not approved, he be allowed to use. A rendering of the proposed wicker chair was also distributed.

Steve Lichtenfeld asked if only the larger panes of the proposed windows open.

Mr. Richman indicated that there are two windows that face DeMun and three that face Rosebury.

Steve Lichtenfeld asked if the transom windows above are fixed.

Mr. Richman replied “yes”. He stated that he is intrigued by the window system and finds it attractive. He stated that the windows do not go all the way to the floor; they are atop a “ledge” that is about 30” from the ground level.

Steve Lichtenfeld commented that the drawings show it at 1’-7”. He commented that in the open position, the windows extend about 5’-10” from the face of the building, which would not go beyond the seating area.

Mr. Richman concurred.

Scott Wilson commented that the outdoor seating area will be protected from the rain if the windows are open.

Marc Lopata indicated that with the addition of new windows, this is the opportunity to install energy efficient windows. He referred Mr. Richman to ASHRAE Advanced Energy Design Guide.

Mr. Richman agreed.

Scott Wilson stated that he, too, likes the windows.

Jason Jaggi commented that the building plans will be reviewed carefully for permit issuance.

Being no further questions or comments, Marc Lopata made a motion to approve with the following conditions:

1. That the modification to the Sign Ordinance be granted so as to allow the proposed blade sign with the conditions that no additional wall signs are permitted (unless approved by the ARB), that the sign contain no exposed neon and that the size be limited to 12 square feet, as shown.
2. That a survey be provided showing the property lines prior to issuing the Outdoor Dining Permit.
3. That a revised seating plan be provided showing at least 4-feet pedestrian clearance for the outdoor dining area facing DeMun for staff review and approval.

It was noted that the proposed pedestrian railing and window system were approved and the exhaust flue issue per the condition contained in the Conditional Use Permit portion of the review.

The motion was seconded by Steve Lichtenfeld and unanimously approved by the Board.

Acting Chairman Liberman asked Mr. Richman when he plans to open.

Mr. Richman indicated that he hopes to be open by June.

ARCHITECTURAL REVIEW – NEW CONSTRUCTION – ADDITION TO SINGLE FAMILY RESIDENCE – 31 CRESTWOOD

Mr. David Pape, project architect, was in attendance at the meeting.

Jason Jaggi explained that an existing raised deck will be removed to accommodate the proposed addition. The existing residence is 3,654 square feet in size. The proposed addition is 1,327 square feet and will raise the total size of the structure to 4,981 square feet. The height of the proposed addition will be 35 feet as measured from the average existing grade at the location of the proposed addition to the mid-point of the roof. The average existing grade on the entirety of the subject property is used for measuring building height and would make the building height less than 30 feet which conforms with the R-2 maximum building height. The height of the proposed addition does not exceed the height of the existing home. The existing residence is red brick with a brick and stone lower level. The proposed addition will be constructed of salvaged red brick to match the existing. The roof of the proposed addition will be charcoal asphalt shingles to match the existing. The new rear entry two-car garage will be added to the lower level of the proposed

addition and will have black carriage-style doors. A portion of the at-grade rear entry garage will remain and will have a new black carriage-style door to match the doors of the proposed garage. The remainder of the existing garage will be converted to living space. The doors of the existing garage will be replaced with French doors. Tudor style windows with black frames and brick and timber heads are proposed to match the existing. Planter boxes with iron straps are proposed to be added beneath the second story windows on the front façade. A terrace constructed of concrete pavers with outdoor dining furniture, a fire pit and additional parking area is proposed to be added to the western end of the existing driveway. The existing asphalt driveway is proposed to be repaved with either exposed aggregate or concrete pavers to match the proposed terrace. A large tree is currently growing in the location of the proposed terrace. The tree is proposed to be saved, and the area surrounding the tree will not be paved. Existing HVAC units will remain, and new units are proposed adjacent to the existing units on the north side of the structure. A 4 foot high wood and wrought-iron fence is proposed to screen the new trash and recyclable enclosure at the northwestern corner of the structure. An existing wood and wrought-iron privacy fence will remain and surrounds the rear yard. Trustee approval has been submitted. Jason indicated that staff believes that the addition contains many of the details of the existing building and will match well. The proposed structure is in conformance with the R-2 Zoning District requirements for single-family residences and staff recommends approval with the condition that adequate tree protection fencing be installed around the tree to be saved in the rear yard prior to commencement of construction.

Mr. Pape presented a site plan to the members, explaining that the 2 story addition will contain below grade parking, a family room on the first floor and a master suite on the second floor. He indicated that the existing garage will be converted to an exercise room. He stated that the owners want to re-pave the driveway, using either permeable pavers or exposed aggregate. He indicated that with regard to the tree, the owners will do everything possible to save it.

Steve Lichtenfeld commented that it seems as though the pathway to the trash area just stops.

Mr. Pape commented that it does not.

Steve Lichtenfeld asked how one gets to the trash area from the house.

Mr. Pape indicated that there is a door at the lower level (garage). The lower level floor plan was presented to the members.

Steve Lichtenfeld asked if the mechanical equipment is sealed off from the garage.

Mr. Pape replied “yes”. The first floor plan was presented.

Elevation drawings were presented. Material samples were presented (Certainteed roof shingle – weathered wood color; double hung windows – black clad).

Marc Lopata asked if they were proposing an operating fireplace on an external wall.

Mr. Pape replied “yes”.

Marc Lopata voiced his concern regarding shading the residence to the north.

Jason Jaggi reminded the members that this is architectural review only; not site plan review due to the fact that the proposed addition square footage is less than 50% of the structure’s existing square footage.

Marc Lopata asked if that means they are exempt from issues such as air, shading and massing.

Jason Jaggi indicated that is why there are setback and height regulations, of which this addition complies.

Marc Lopata asked how far from the side setback the addition sits.

Jason Jaggi stated it is 10’ from the side lot line and 44 foot from the rear lot line.

Marc Lopata commented that the addition will keep shade on the windows to the north.

Mr. Pape stated that all the neighbors have seen and approved the plans. He indicated that although they are proposing new brick, they hope to find salvaged brick to match.

Ms. Alice Walther, 35 Crestwood, informed the Board that the notice she received from the City (agenda copy) was the first she had heard about this project. She asked how long construction trucks will be parked on the street. She stated that the owners are a delightful young couple, but that they did not tell them about this project.

Ms. Kathryn Hungerford, 27 Crestwood (property to the north), voiced her concern about how close this addition will be to her property line.

Acting Chairman Liberman informed Ms. Hungerford that it will be 10’-11/16” from her property line, which is one foot closer than the existing structure.

Ms. Hungerford stated that they have a sunroom that would face this addition and that she is quite concerned about her view.

Mr. Pape stated that the owners told him that the neighbors approved this addition.

Jason Jaggi commented that the Trustees have approved the project.

Scott Wilson stated that the project must have met the subdivision indentures or the Trustees would not have approved it.

Jason Jaggi indicated that the subdivision indentures require a 10’ side yard setback, which this project meets.

Marc Lopata asked how the rear yard setback for this addition compares to other rear yard setbacks in the neighborhood.

Jason Jaggi stated that staff did not measure other properties' setbacks.

Mr. John Hungerford, 27 Crestwood, voiced his concern about that gorgeous tree. He asked what happens if the tree gets destroyed. He added that the 1 foot closer to the property line is a huge deal and he questions how that will look. He also indicated that they will be staring directly into this addition from their sunroom.

Marc Lopata reiterated his concern with shading and massing. He stated he also questions how it will fit with the back yard setbacks. He stated he would approve the addition if the neighbors approved it, but it seems as though that is not the case and recommends that the motion be to table this until the neighbors have had a chance to review. He commented that the massing from the north is twice the size of the original house.

Acting Chairman Liberman asked Kevin O'Keefe about this situation.

Kevin O'Keefe commented that some elements are both site plan and architectural review; however, there is no site plan review associated with this project, only architectural elements.

Scott Wilson stated that everything about this project complies with Clayton's criteria and that the architecture is appropriate. He questions this Board's authority with regard to shadowing issues.

Kevin O'Keefe stated that he does not argue the fact that this project meets Clayton's requirements.

Acting Chairman Liberman asked what forces the 1 foot offset.

Mr. Pape indicated that will "break-up" the new versus old brick.

Marc Lopata commented that the Board gets wrapped-up with massing issues for commercial projects. He stated that there is a massing issue here.

Ms. Hungerford stated that this is the first time she has seen the plans and that their house is getting closer to the property line. She stated that she does not want to cause trouble as she likes the neighbors, but something needs to be done here. She asked that they work with them on a solution.

Scott Wilson mentioned the fence, landscaping between the two properties (27 and 31 Crestwood).

Mr. Hungerford commented that their view will be above the fence line.

Being no further questions or comments at this time, Scott Wilson made a motion to approve per staff recommends. There was no second. Motion fails due to lack of a second.

Marc Lopata made a motion to table this item pending a more agreeable solution. He noted that if a vote is taken and the decision is to deny, the project is “dead” for one year. The motion was seconded by Steve Lichtenfeld and unanimously approved by the Board.

Acting Chairman Liberman advised Mr. Pape to have the owners meet with their neighbors.

Mr. Pape noted that a similar situation exists two houses to the south.

Acting Chairman Liberman commented that this Board cannot and does not determine what is “typical”.

Mr. Pape reiterated that all Clayton’s regulations were followed.

ARCHITECTURAL REVIEW BOARD – ANTENNA INSTALLATION – 231 S. BEMISTON AVENUE

Mr. Hans Mugler, Clear Solutions, was in attendance at the meeting.

Jason Jaggi explained that this is consideration of a request by Clear Wireless US LLC for review of the design and materials associated with the installation of three antennas and one cabinet on the rooftop of the existing 200 feet tall office building at 231 S. Bemiston Ave. One antenna is proposed at the center of the northern edge of the roof. Additional antennas are proposed at both the southeastern and southwestern rooftop corners. Both panel and round antennas are proposed for high speed data transfer and consumer wireless service. Proposed antennas are 4 feet tall, but will stand at 6 feet when placed on the proposed non-penetrating ballast sleds. An equipment cabinet is proposed on the northeast corner of the penthouse in the center of the rooftop. On top of the platform, the cabinet will be approximately 6 feet high. The parapet at the edge of the rooftop is 1’-9” tall and will not screen the proposed antennas. The applicant has indicated that additional screening is not proposed so as not to interfere with the performance of existing dishes on the rooftop of the subject property. Canister screening would be incapable of housing the proposed equipment, and panel screening would interfere with the appearance of the existing building and therefore, staff recommends approval as submitted with the condition that all antennas and the cabinet be painted to match the exterior color of the building.

Mr. Mugler stated that staff has covered the proposal and that this is a very straightforward addition to the rooftop that will provide the fastest wireless internet and will serve the area.

Acting Chairman Liberman asked Mr. Mugler if he is okay with staff’s recommendation.

Mr. Mugler replied “yes”.

Being no further questions or comments, Marc Lopata made a motion to approve per staff recommendation. The motion was seconded by Steve Lichtenfeld and unanimously approved by the Board.

Ron Reim asked if RJ York has filed bankruptcy.

Craig Owens indicated that they have not withdrawn their hotel project.

Scott Wilson commented that the bankruptcy, from what he understands, is a bit of a smokescreen and that negotiations are still in place. He noted that he is not sure holding up that project at 31 Crestwood was appropriate as all requirements of the City's regulations were met and the Trustees approved it.

Acting Chairman Liberman mentioned the air/light issue.

Steve Lichtenfeld stated that he agrees their project was within the envelope, but they (the owners) need to be more neighborly and discuss their plans with their neighbors.

Ron Reim commented that their hand has been forced at this point to talk to their neighbors. He stated that this Board can, at their discretion, approve a project over neighbors' objections.

Jason Jaggi indicated that the City has zoning requirements (i.e. setbacks, height limitations, etc.) to address issues such as impairment of light and air. He stated that it is obvious that the architect for 31 Crestwood was under the assumption that the neighbors had reviewed and approved the plans, which was not the case. He noted that Claverach Park has more restrictive regulations than the City does and that the project also met those setbacks.

Steve Lichtenfeld mentioned that the project avoided site plan review as it fell below the 50% threshold; however, they doubled the amount of wall and maybe site plan review could be required when situations like that occur.

Marc Lopata asked about the storm water/landscape ordinance.

Jason Jaggi stated that staff is still working on it and the next step is getting the developers'/residents' input.

Marc Lopata asked for a schedule and stated that he is aware this needs to move forward, but it has taken a back seat to finalizing the Planning Director's position.

Craig Owens informed the members that the closing date for submitting an employment application for the Director position was earlier today and that they hope to have the position filled by April 1st. He stated that the Planner/Sustainability Coordinator position has been put on hold for now.

Being no further business for the Plan Commission/Architectural Review Board, this meeting adjourned at 7:05 p.m.

Recording Secretary